

1970

c 386 Public Service Act

Ontario

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CHAPTER 386

The Public Service Act**1. In this Act,**Interpre-
tation

- (a) "civil servant" means a person appointed to the service of the Crown by the Lieutenant Governor in Council on the certificate of the Commission or by the Commission, and "civil service" has a corresponding meaning;
- (b) "classified service" means the part of the public service to which civil servants are appointed;
- (c) "Commission" means the Civil Service Commission;
- (d) "Crown" means the Crown in right of Ontario;
- (e) "Crown employee" means a person employed in the service of the Crown or any agency of the Crown, but does not include an employee of The Hydro-Electric Power Commission of Ontario, the Workmen's Compensation Board, or the Ontario Northland Transportation Commission;
- (f) "Minister" means the member of the Executive Council who is designated by the Lieutenant Governor in Council as the minister to whom the Commission is responsible for the administration of this Act;
- (g) "public servant" means a person appointed under this Act to the service of the Crown by the Lieutenant Governor in Council, by the Commission or by a minister, and "public service" has a corresponding meaning;
- (h) "regulations" means the regulations made under this Act;
- (i) "unclassified service" means the part of the public service that is composed of positions to which persons are appointed by a minister under this Act. 1961-62, c. 121, s. 1; 1962-63, c. 118, s. 1.

2.—(1) The Commission shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, one of whom may be appointed chairman. Commission,
composition

(2) The full-time members of the Commission shall be deemed to be civil servants. 1961-62, c. 121, s. 2. status

Administration

3. The Commission is responsible to the Minister for the administration of this Act, and the staff of the Commission constitutes the Department of Civil Service. 1965, c. 110, s. 1.

Duties of Commission

4. The Commission shall,

- (a) evaluate and classify each position in the classified service and determine the qualifications therefor;
- (b) recommend to the Lieutenant Governor in Council the salary range for each classification, except a previously established classification for which a salary range is determined through negotiation under section 27 or 28;
- (c) recruit qualified persons for the civil service and establish lists of eligibles;
- (d) assign persons to positions in the classified service and specify the salaries payable;
- (e) determine perquisite charges for civil servants;
- (f) provide, assist in or co-ordinate staff development programs;
- (g) present annually through the Minister to the Lieutenant Governor in Council a report upon the performance of its duties during the preceding year, which report shall be laid before the Assembly if it is in session or, if not, at the next ensuing session. 1961-62, c. 121, s. 4; 1968, c. 110, s. 1.

Exclusion of positions from classified service

5. The Commission may exclude any position in the classified service from that service for such period as it may determine. 1965, c. 110, s. 2.

Filling of vacancies in classified service

6.—(1) When a vacancy exists in the classified service, the deputy minister of the department in which the vacancy exists shall nominate in writing from the list of eligibles of the Commission a person to fill the vacancy.

Appointments to probationary staff

(2) The Commission shall appoint the person nominated under subsection 1 to a position on the probationary staff of the classified service for not more than one year at a time. 1961-62, c. 121, s. 5.

Appointments to regular staff

7. The Commission shall, if requested in writing by the deputy minister, recommend to the Lieutenant Governor in Council the appointment of a person on the probationary staff of the classified service to the regular staff of the classified service, and the recommendation shall be accompanied by the certificate of qualification and assignment of the Commission. 1961-62, c. 121, s. 6.

8.—(1) A minister or any public servant who is designated in writing for the purpose by him may appoint for a period of not more than one year on the first appointment and for any period on any subsequent appointment a person to a position in the unclassified service in any department over which he presides. 1961-62, c. 121, s. 7 (1); 1962-63, c. 118, s. 2.

Appointment
by minister
to unclassi-
fied service

(2) Any appointment made by a designee under subsection 1 shall be deemed to have been made by his minister. 1961-62, c. 121, s. 7 (2).

Idem

9. A person who is appointed to a position in the public service for a specified period ceases to be a public servant at the expiration of that period. 1961-62, c. 121, s. 8.

Termination
of appoint-
ment

10.—(1) Every civil servant shall before any salary is paid to him take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of office and secrecy in the following form:

Oath of
office and
secrecy

I,, do swear that I will faithfully discharge my duties as a civil servant and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant.

So help me God.

(2) Every civil servant shall before performing any duty as a member of the regular staff take and subscribe before the Clerk of the Executive Council, his deputy minister, or a person designated in writing by either of them, an oath of allegiance in the following form:

Oath of
allegiance

I,, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning sovereign for the time being*), her heirs and successors according to law.

So help me God.

(3) A minister may require any person or class of persons appointed to the unclassified service in any department over which he presides to take and subscribe either or both of the oaths set out in subsection 1 and 2.

Unclassified
service

(4) A copy of each oath administered to a civil servant shall be kept by his deputy minister in the departmental file of the civil servant. 1961-62, c. 121, s. 9.

Record of
oaths

11. A Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations, may be a candidate for election to any elective municipal office, including a member or trustee of an elementary or secondary school board or a trustee of an improvement district, or may serve in such office or actively work in support of a candidate for such office if,

Political
activities
of Crown
employees,
municipal
elections

- (a) the candidacy, service or activity does not interfere with the performance of his duties as a Crown employee;
- (b) the candidacy, service or activity does not conflict with the interests of the Crown; and
- (c) the candidacy, service or activity is not in affiliation with or sponsored by a provincial or federal political party. 1962-63, c. 118, s. 3, *part*.

Political activities of Crown employees, provincial and federal elections

12.—(1) Except during a leave of absence granted under subsection 2, a Crown employee shall not,

- (a) be a candidate in a provincial or federal election or serve as an elected representative in the legislature of any province or in the Parliament of Canada;
- (b) solicit funds for a provincial or federal political party or candidate; or
- (c) associate his position in the service of the Crown with any political activity.

Leave of absence for election candidates

(2) Any Crown employee, other than a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause *u* of subsection 1 of section 29, who proposes to become a candidate in a provincial or federal election shall apply through his minister to the Lieutenant Governor in Council for leave of absence without pay for a period,

- (a) not longer than that commencing on the day on which the writ for the election is issued and ending on polling day; and
- (b) not shorter than that commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

Resignation

(3) Where a Crown employee who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a Crown employee.

Re-appointment

(4) Where a Crown employee who has resigned under subsection 3,

- (a) ceases to be an elected political representative within five years of the resignation; and
- (b) applies for reappointment to his former *position* or to another position in the service of the Crown for which he is qualified within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

(5) Where a Crown employee has been granted leave of absence under subsection 2 and was not elected, or resigned his position under subsection 3 and was reappointed under subsection 4, the period of the leave of absence or resignation shall not be computed in determining the length of his service for any purpose, and the service before and after such period shall be deemed to be continuous for all purposes. 1962-63, c. 118, s. 3, *part*.

Service
deemed
continuous

13.—(1) A civil servant shall not during a provincial or federal election canvass on behalf of a candidate in the election.

Canvassing
prohibited
during
elections,
civil
servants

(2) Notwithstanding subsection 1, a deputy minister or any other Crown employee in a position or classification designated in the regulations under clause *u* of subsection 1 of section 29 shall not at any time canvass on behalf of or otherwise actively work in support of a provincial or federal political party or candidate. 1962-63, c. 118, s. 3, *part*.

Idem,
senior
officials

14. Except during a leave of absence granted under subsection 2 of section 12, a civil servant shall not at any time speak in public or express views in writing for distribution to the public on any matter that forms part of the platform of a provincial or federal political party. 1962-63, c. 118, s. 3, *part*.

Speaking,
etc., on
political
issues by
civil
servants

15. A Crown employee shall not during working hours engage in any activity for or on behalf of a provincial or federal political party. 1962-63, c. 118, s. 3, *part*.

Political
activity
during
working
hours

16. A contravention of section 11, 12, 13, 14 or 15 shall be deemed to be sufficient cause for dismissal. 1962-63, c. 118, s. 3, *part*.

Dismissal
for con-
travention

17.—(1) Every civil servant shall retire at the end of the month in which he attains the age of sixty-five years, but, where in the opinion of the Commission special circumstances exist and where his deputy minister so requests in writing, he may be reappointed by the Lieutenant Governor in Council for a period not exceeding one year at a time until the end of the month in which he attains the age of seventy years. 1961-62, c. 121, s. 10 (1); 1966, c. 130, s. 1 (1).

Age of
retirement

(2) Notwithstanding subsection 1, every person in the public service on the 1st day of March, 1948, who was more than fifty years of age on that day and who has been in the public service continuously since that day shall retire at the end of the month in which he attains the age of seventy years. 1961-62, c. 121, s. 10 (2); 1966, c. 130, s. 1 (2).

Exception

Appointment of superannuates and annuitants
R.S.O. 1970, c. 387

18. The Lieutenant Governor in Council may appoint for a period not exceeding six months at a time in a special capacity any person who is receiving a superannuation allowance or an annuity under *The Public Service Superannuation Act* and who has professional, expert or technical knowledge that the Lieutenant Governor in Council desires to have at his disposal. 1961-62, c. 121, s. 11.

Resignation

19. A person may resign from the public service by giving his deputy minister two weeks notice in writing of his intention to resign, but he may, by an appropriate notice in writing and with the approval of his deputy minister, withdraw the notice at any time before its effective date if no person has been appointed or selected for appointment to the position that will become vacant by reason of his resignation. 1961-62, c. 121, s. 12.

Abandonment

20. A public servant who is absent from duty without official leave for a period of two weeks or such longer period as is prescribed in the regulations may by an instrument in writing be declared by his deputy minister to have abandoned his position, and thereupon his position becomes vacant and he ceases to be a public servant. 1961-62, c. 121, s. 13.

Deputy minister's functions

21.—(1) Subject to the direction of his minister, a deputy minister is responsible for the operation of his department and shall perform such other functions as are assigned to him by his minister or by the Lieutenant Governor in Council.

Absence, etc.

(2) Where a deputy minister is absent or where there is a vacancy in the office, his powers and duties shall be exercised and performed by such public servant as is designated by his minister. 1961-62, c. 121, s. 14.

Suspension during investigation

22.—(1) A deputy minister may, pending an investigation, suspend from employment any public servant in his department for such period as the regulations prescribe, and during any such period of suspension may withhold the salary of the public servant. 1961-62, c. 121, s. 15 (1); 1962-63, c. 118, s. 4.

Removal from employment

(2) A deputy minister may for cause remove from employment without salary any public servant in his department for a period not exceeding one month or such lesser period as the regulations prescribe.

Power to dismiss

(3) A deputy minister may for cause dismiss from employment in accordance with the regulations any public servant in his department.

Release from employment

(4) A deputy minister may release from employment in accordance with the regulations any public servant where he considers it necessary by reason of shortage of work or funds or

the abolition of a position or other material change in organization.

(5) A deputy minister may release from employment any public servant during the first year of his employment for failure to meet the requirements of his position. 1961-62, c. 121, s. 15 (2-5). Idem

23.—(1) With the consent in writing of his minister, a deputy minister may delegate in writing any of his powers under this Act to any public servant or any class thereof in his department. Delegation of powers, deputy minister

(2) With the consent of his minister, a deputy minister may delegate any of his duties under this Act to any public servant or any class thereof in his department. 1965, c. 110, s. 3. Delegation of duties, deputy minister

24. The Commission may authorize a deputy minister to exercise and perform any of the powers or functions of the Commission in relation to the recruitment of qualified persons for the civil service and to the evaluation and classification of positions in the classified service that are designated by the Commission. 1961-62, c. 121, s. 17; 1965, c. 110, s. 4. Delegation of powers and functions, Commission

25.—(1) Deputy ministers and public servants shall give the Commission such access to their respective departments and offices and such facilities, assistance and information as the Commission may require for the performance of its duties. Access to records, etc.

(2) In connection with, and for the purposes of, any investigation, the Commission or any member thereof holding an investigation has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1961-62, c. 121, s. 18. Investigations
R.S.O. 1970, c. 379

26. Where a debt or money demand of not less than \$25, either on a judgment or otherwise and not being a claim for damages, is due and owing by a Crown employee whose salary or wages are paid out of the Consolidated Revenue Fund, and the creditor files with the Treasurer of Ontario, Debts of persons paid out of Consolidated Revenue Fund

(a) a notice of the debt or money demand; and

(b) such proof as the Treasurer may require that the debt or money demand is owing,

the Treasurer may deduct from the salary of the debtor, or from any money owing to him from the Crown and payable out of the Consolidated Revenue Fund, such amount as the Treasurer sees fit in the circumstances and pay the amount to the creditor in discharge or in partial discharge of the debt or money demand. 1962-63, c. 118, s. 5.

Joint
Council,
composition

27.—(1) There shall be a Joint Council composed of,

- (a) three Crown employees appointed by the Lieutenant Governor in Council on the recommendation of the Treasury Board, to be known as the "official side"; and
- (b) three members or two members and one employee or one member and two employees of the Civil Service Association of Ontario appointed by the Lieutenant Governor in Council on the recommendation of the Association, to be known as the "staff side". 1966, c. 130, s. 2 (1); 1968, c. 110, s. 2.

Chairman

(2) The Lieutenant Governor in Council shall appoint a person who is not a member of the Joint Council as chairman, and the chairman shall not vote.

Alternate
chairman

(3) The Lieutenant Governor in Council may appoint a person who is not a member of the Joint Council to act as chairman when the chairman is absent. 1962-63, c. 118, s. 6, *part*.

Duties of
chairman

(4) The chairman of the Joint Council shall,

- (a) convene a meeting of the Joint Council at the request of the official side or of the staff side, or of both of them;
- (b) put on the agenda in accordance with the Rules of the Joint Council at the request of the official side or of the staff side, or of both of them, any matter concerning the terms of employment of Crown employees, including working conditions, remuneration, leaves and hours of work, that is not excluded by the regulations; and
- (c) preside at the meeting. 1966, c. 130, s. 2 (2).

Duties of
Joint
Council

(5) The Joint Council shall negotiate such matters as are put on its agenda by the chairman under subsection 4. 1962-63, c. 118, s. 6, *part*.

Agreements

(6) Every agreement reached by the official side and the staff side of the Joint Council shall be put in writing and three copies thereof signed by the senior member of each side, and one copy thereof shall be delivered to the chairman of the Joint Council who shall forthwith transmit it to the appropriate authority to be implemented. 1966, c. 130, s. 2 (4).

Reference
to mediator

28.—(1) If the two sides of the Joint Council are unable to reach agreement upon any matter, the chairman shall refer the matter to the Minister of Labour who may, within fifteen days thereafter, appoint a mediator to confer with representatives of the two sides and endeavour to bring about agreement upon the matter.

Reference
to Civil
Service
Arbitration
Board

(2) If the Minister of Labour does not appoint a mediator within the fifteen days mentioned in subsection 1 or if the

mediator is unable to bring about agreement, the chairman of the Joint Council shall refer the matter to the Civil Service Arbitration Board who shall, after a hearing decide the matter. 1966, c. 130, s. 3 (1).

(3) There shall be a Civil Service Arbitration Board appointed by the Lieutenant Governor in Council composed of, Composition

- (a) a chairman who shall be appointed for a renewable term of two years;
- (b) one member designated from time to time by the members of the Joint Council appointed under clause a of subsection 1 of section 27; and
- (c) one member designated from time to time by the members of the Joint Council appointed under clause b of subsection 1 of section 27. 1962-63, c. 118, s. 6, *part*.

(4) Every decision of the Civil Service Arbitration Board shall be signed by the chairman, and he shall transmit it to the chairman of the Joint Council who shall forthwith transmit it to the appropriate authority to be implemented. 1962-63, c. 118, s. 6, *part*; 1966, c. 130, s. 3 (2). Decisions

(5) *The Arbitrations Act* does not apply to matters referred to the Civil Service Arbitration Board under this section. 1962-63, c. 118, s. 6, *part*. R.S.O. 1970,
c. 25, not
to apply

29.—(1) The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) prescribing methods of evaluating and classifying positions;
- (b) prescribing classifications for positions, including qualifications, duties and salaries, except salaries for previously established classifications for which salaries are determined through negotiation under section 27 or 28;
- (c) prescribing the standards and procedures to be followed in recruitment, selection and nomination;
- (d) prescribing the procedures to be followed in making assignments;
- (e) providing for a probationary period on appointment or assignment;
- (f) determining employee benefits;
- (g) providing for the establishment of plans for group life insurance, medical-surgical insurance or long-term income protection insurance;
- (h) prescribing the hours of work;

- (i) defining overtime work and providing for compensation therefor;
- (j) providing for and prescribing payments on death;
- (k) regulating the conduct of public servants, including the imposition of fines, removal from employment, demotion or otherwise;
- (l) providing for a system of credits for regular attendance and payments in respect of such credits;
- (m) providing for the granting of leave of absence;
- (n) prescribing a period longer than two weeks for the purposes of section 20;
- (o) prescribing periods of suspension or removal from employment for the purposes of section 22;
- (p) prescribing the conditions and procedures for release from employment, lay-off and subsequent reappointment;
- (q) prescribing the conditions and procedures for dismissal;
- (r) providing for departmental or branch councils, grievance boards, medical boards, and committees of any kind, and prescribing their jurisdictions, powers and duties, including any of the powers that may be conferred upon a commissioner under *The Public Inquiries Act*;
- (s) prescribing arrangements and procedures for providing, assisting in or co-ordinating staff development programs;
- (t) prescribing the duties and procedures of the Joint Council, the Ontario Provincial Police Negotiating Committee and the Civil Service Arbitration Board and excluding matters from the agenda of the Joint Council;
- (u) designating positions or classifications of Crown employees for the purpose of section 11;
- (v) prescribing and providing for the use of forms under this Act or the regulations;
- (w) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1961-62, c. 121, s. 20 (1); 1962-63, c. 118, s. 7; 1965, c. 110, s. 5; 1968, c. 110, s. 3.

R.S.O. 1970,
c. 379

Application

(2) Any regulations made under subsection 1 may be made applicable to all or any part of the classified service or unclassified service. 1961-62, c. 121, s. 20 (2).

30. The cost of administration of this Act is payable out of the moneys appropriated therefor by the Legislature. 1961-62, ^{Cost of} ^{administra-} ^{tion}
c. 121, s. 21.
